

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LAMARR T. BRAZIER,

Plaintiff,

vs.

NICHOLAS BRIGANDI, *et al.*,

Defendants.

2:14-cv-15-JAD-VCF

ORDER

This matter involves incarcerated *pro se* Plaintiff LaMarr T. Brazier's section 1983 action against five Defendants for violations of Brazier's Fourth, Eighth, and Fourteenth Amendment rights. Before the court is Brazier's Motion for Leave to Amend (#17) and Motion for Service (#18). For the reasons stated below, Brazier's Motion for Leave to Amend is granted and his Motion for Service is denied as unripe.

Federal Rule of Civil Procedure 15 governs amended and supplemental pleadings. In pertinent part, Rule 15(a)(2) states that where, as here, a party has amended its pleadings, that "party may amend its pleadings only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires."

Here, Brazier has amended his complaint three times in connection with the court's screening order. To date, no Defendant has been served. Nonetheless, Brazier moves the court to amend in order to add a new party, whom he inadvertently omitted from his previous complaint. (*See* Doc. #17 at 2). Additionally, Brazier moves to serve all Defendants. The court grants Brazier's Motion to Amend, but denies his Motion to Serve. The court cannot order service without a proper complaint. Once Brazier has

1 filed a Fourth Amended Complaint in accordance with the terms of this order, the court will order
2 Defendants to be served if Brazier files a renewed Motion to Serve.

3 ACCORDINGLY, and for good cause shown,

4 IT IS ORDERED that LaMarr T. Brazier's Motion for Leave to Amend (#17) is GRANTED.

5 IT IS FURTHER ORDERED that Plaintiff shall have until January 30, 2015, to file his amended
6 complaint. The amended complaint must be a complete document in and of itself, and will supersede the
7 original complaint in its entirety. Any allegations, parties, or requests for relief from prior papers that are
8 not carried forward in the amended complaint will no longer be before the court.

9 IT IS FURTHER ORDERED that Plaintiff must clearly title the amended complaint as such by
10 placing the words "FOURTH AMENDED COMPLAINT" on page 1 in the caption along with the case
11 number, 2:14-cv-15-JAD-VCF. Plaintiff is expressly cautioned that if he does not timely file an amended
12 complaint, his claim against the new proposed Defendant may be dismissed with prejudice. In that event,
13 the court will direct service of the remaining claims after the time for filing an amended complaint has
14 run.
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16 IT IS ORDERED that LaMarr T. Brazier's Motion for Service (#18) is DENIED.

17 **NOTICE**

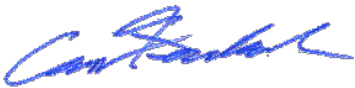
18 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
19 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
20 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
21 may determine that an appeal has been waived due to the failure to file objections within the specified
22 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections
23 within the specified time and (2) failure to properly address and brief the objectionable issues waives the
24 right to appeal the District Court's order and/or appeal factual issues from the order of the District Court.
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1 *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452,
2 454 (9th Cir. 1983).

3 Pursuant to Local Special Rule 2-2, the Plaintiff must immediately file written notification with
4 the court of any change of address. The notification must include proof of service upon each opposing
5 party of the party's attorney. **Failure to comply with this Rule may result in dismissal of the action.**
6 *See* LSR 2-2.

7 IT IS SO ORDERED.

8 DATED this 12th day of January, 2015.

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11 CAM FERENBACH
12 UNITED STATES MAGISTRATE JUDGE
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